

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 04-cr-10126

United States of America

v.

Victor Vargas

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**CLERK'S CERTIFICATE**

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 10/27/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on December 5, 2005.

Sarah A. Thornton, Clerk of Court

By:

*Jeanette Ramos*  
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 12/6/05.

*D. Bachard*

Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL, INTERP

**United States District Court  
District of Massachusetts (Boston)  
CRIMINAL DOCKET FOR CASE #: 1:04-cr-10126-RWZ-ALL**

Case title: USA v. Vargas

Date Filed: 04/21/2004

Assigned to: Judge Rya W. Zobel  
Referred to: Magistrate Judge Joyce  
London Alexander

**Defendant**

**Victor Vargas (1)**  
TERMINATED: 10/20/2005  
*also known as*  
Samuel Ortiz (1)  
TERMINATED: 10/20/2005  
*also known as*  
Louis A Ocasio (1)  
TERMINATED: 10/20/2005

represented by **Charles P. McGinty**  
Federal Defender's Office  
408 Atlantic Ave.  
Third Floor  
Boston, MA 02110  
617-223-8061  
Fax: 617-223-8080  
Email: charles\_mcginty@fd.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or  
Community Defender Appointment*

**Pending Counts**

18:1542-FALSE STATEMENT IN  
PASSPORT APPLICATION  
(1)

**Disposition**

The defendant is sentenced to One year  
and One day; 2 years SR; \$300.00 SA;  
no fine; Standard Conditions apply; SC;  
if deported, leave the us; and use true  
name;

42:408 (a)(7)(B)-MISUSE OF SOCIAL  
SECURITY NUMBER  
(2)

The defendant is sentenced to One year  
and One day; 2 years SR; \$300.00 SA;  
no fine; Standard Conditions apply; SC;  
if deported, leave the us; and use true  
name;

18:1028 (a)(4)- POSSESSION OF  
UNLAWFUL IDENTIFICATION  
DOCUMENT TO DEFRAUD THE  
UNITED STATES  
(3)

The defendant is sentenced to One year  
and One day; 2 years SR; \$300.00 SA;  
no fine; Standard Conditions apply; SC;  
if deported, leave the us; and use true  
name;

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition**

**Plaintiff**

USA

represented by **Sandra S. Bower**  
United States Attorney's Office  
John Joseph Moakley Federal  
Courthouse  
1 Courthouse Way  
Suite 9200  
Boston, MA 02210  
617-748-3184  
Fax: 617-748-3965  
Email: Sandra.Bower@usdoj.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
04/21/2004	●1	INDICTMENT as to Victor Vargas (1) count(s) 1, 2, 3. (Diskes, Sheila) (Entered: 04/21/2004)
04/21/2004	●2	Judge Rya W. Zobel : ORDER entered ORDER REFERRING CASE to Magistrate Judge Joyce London Alexander Reason for referral: PRETRIAL as to Victor Vargas (Diskes, Sheila) (Entered: 04/21/2004)
04/21/2004	●	Arrest Warrant Issued as to Victor Vargas. (Diskes, Sheila) (Entered: 04/21/2004)
11/02/2004	●	Arrest of Victor Vargas (Brown, Rex) (Entered: 11/02/2004)
11/02/2004	●	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :Initial Appearance as to Victor Vargas held on 11/2/2004. FPD Charles McGinty informs the Court that the defendant has been informed of his rights and that counsel has advised the defendant to answer no questions. Counsel requests that the Court defer arraignment and the filing of the financial affidavit to the next hearing. Arraignment set for 11/5/2004 11:00 AM in Courtroom 24 before Magistrate Judge Joyce London Alexander. Detention Hearing set for 11/5/2004 11:00 AM in Courtroom 24 before Magistrate Judge Joyce London Alexander.

		(Tape #Digital Recording.) (Brown, Rex) (Entered: 11/02/2004)
11/05/2004	●	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :Arraignment held on 11/5/2004, Detention Hearing as to Victor Vargas held on 11/5/2004. At the request of counsel, the Court will defer the matters of arraignment, detention and appointment of counsel until next hearing. The Court ALLOWS the motion. Arraignment set for 11/10/2004 03:00 PM in Courtroom 24 before Magistrate Judge Joyce London Alexander. Detention Hearing set for 11/10/2004 03:00 PM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Tape #Digital Recording.) (Brown, Rex) (Entered: 11/08/2004)
11/09/2004	● 3	Arrest Warrant Returned Executed on 11/2/04. as to Victor Vargas. (Johnson, Jay) (Entered: 11/09/2004)
11/10/2004	●	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander : The defendant appeared with federal defender Charles McGinty. Attorney McGinty moved (orally) to defer the filing of a financial affidavit. The Court ALLOWS the motion. Attorney McGinty instructs the defendant not to answer any questions of the Court pursuant to Rule 11(A)(4). Arraignment as to Victor Vargas (1) Count 1,2,3 held on 11/10/2004. Pursuant to Rule 11A(4) the Court enters a plea of not guilty. Attorney McGinty moved (orally) to continue the Detention Hearing as to Victor Vargas held on 11/10/2004. The Court ALLOWS the motion. Detention Hearing set for 11/19/2004 02:00 PM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Tape #Digital Recording.) (Brown, Rex) (Entered: 11/10/2004)
11/19/2004	●	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :Detention Hearing as to Victor Vargas held on 11/19/2004. Hearing is continued to November 30, 2004 at 10:00 AM in Courtroom 24 before Judge Joyce L. Alexander. (Court Reporter Digital Recording.) (Abaid, Kim) (Entered: 11/19/2004)
11/19/2004	●	Set/Reset Hearings as to Victor Vargas : Detention Hearing set for 11/30/2004 10:00 AM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Abaid, Kim) (Entered: 11/19/2004)
11/30/2004	● 4	MOTION To Permit Defense Expert To Take Inked Prints Of Defendant as to Victor Vargas . (Brown, Rex) (Entered: 11/30/2004)
11/30/2004	●	Judge Joyce London Alexander : Electronic ORDER entered granting 4 Motion To Permit Defense Expert To Take Inked Prints Of Defendant as to Victor Vargas (1) (Brown, Rex) (Entered: 11/30/2004)
11/30/2004	●	REMARK as to Victor Vargas : upon advice of counsel, as of this date, the defendant has not submitted a financial affidavit and, thus, an order to appoint counsel has not issued. (Brown, Rex) Modified on 11/30/2004 (Brown, Rex). (Entered: 11/30/2004)
11/30/2004	●	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :Detention Hearing as to Victor Vargas held on 11/30/2004. The government states the basis for detention. The Court inquires of the

		defendant's prior criminal history. The defendant waives his right to a detention hearing and consents to an order of detention. The Court ORDERS the defendant DETAINED and remanded to the custody of the Marshal pursuant to 18 U.S.C. 3142(e). (Tape #Digital Recording.) (Brown, Rex) (Entered: 12/09/2004)
12/13/2004	⑤	Judge Joyce London Alexander : ORDER entered ORDER OF DETENTION as to Victor Vargas (Brown, Rex) (Entered: 12/21/2004)
01/04/2005	⑥	NOTICE OF HEARING as to Victor Vargas INITIAL Status Conference set for 1/11/2005 10:30 AM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Brown, Rex) (Entered: 01/04/2005)
01/11/2005	⑦	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :INITIAL Status Conference as to Victor Vargas held on 1/11/2005. The parties make oral motion to exclude the time from 11/10/04 through 2/22/05. The Court ORDERS the parties file a JOINT motion with the Court. Order to issue. FINAL Status Conference set for 2/22/2005 03:00 PM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Tape #Digital Recording.) (Brown, Rex) (Entered: 01/30/2005)
01/28/2005	⑧	Judge Joyce London Alexander : ORDER entered. REPORT AND ORDER on Initial Status Conference as to Victor Vargas. Dispositive Motions due by 2/22/2005; government's response due 3/8/05. Final Status Conference set for 2/22/2005 03:00 PM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Brown, Rex) (Entered: 01/30/2005)
02/22/2005	⑨	JOINT MOTION for Excludable Delay from 11/10/05 to 12/8/04, 12/8/04 to 1/11/05 and 1/11/05 to 2/22/05 as to Victor Vargasby Victor Vargas, USA. (Brown, Rex) (Entered: 03/17/2005)
02/22/2005	⑩	Judge Joyce London Alexander : Electronic ORDER entered granting ⑨ Motion to Exclude as to Victor Vargas (1) (Brown, Rex) (Entered: 03/17/2005)
02/22/2005	⑪	Judge Joyce London Alexander : ORDER entered. ORDER ON EXCLUDABLE DELAY as to Victor Vargas Time excluded from 11/10/04 until 12/8/04. Time excluded from 12/8/04 until 1/11/05. Time excluded from 1/11/05 until 2/22/05. (Brown, Rex) Modified on 3/18/2005 (Johnson, Jay). (Entered: 03/17/2005)
02/22/2005	⑫	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :Final Status Status Conference as to Victor Vargas held on 2/22/2005. At the request of the parties, the matter is continued. Final Status Conference set for 3/15/2005 03:00 PM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Tape #Digital Recording.) (Brown, Rex) (Entered: 03/24/2005)
02/25/2005	⑬	Joint MOTION for Excludable Delay from February 22, 2005 to March 15, 2005 as to Victor Vargasby USA. (Bower, Sandra) (Entered: 02/25/2005)

03/08/2005	●	Judge Joyce London Alexander : Electronic ORDER entered granting <u>8</u> Motion to Exclude as to Victor Vargas (1) (Brown, Rex) (Entered: 03/22/2005)
03/15/2005	●	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :Final Status Conference as to Victor Vargas held on 3/15/2005. At the request of the parties, the matter is continued. Discovery due by 4/26/2005. Final Status Conference set for 4/26/2005 02:00 PM in Courtroom 24 before Magistrate Judge Joyce London Alexander. (Tape #Digital Recording.) (Brown, Rex) (Entered: 03/24/2005)
03/15/2005	● <u>12</u>	JOINT MOTION for Excludable Delay from 11/10/04 to 12/8/04 and 12/8/04 to 1/11/05 as to Victor Vargasby Victor Vargas, USA. (Brown, Rex) (Entered: 04/04/2005)
03/15/2005	●	Judge Joyce London Alexander : Electronic ORDER entered granting <u>12</u> Motion to Exclude as to Victor Vargas (1) (Brown, Rex) (Entered: 04/04/2005)
03/15/2005	● <u>13</u>	Judge Joyce London Alexander : ORDER entered. ORDER ON EXCLUDABLE DELAY as to Victor Vargas Time excluded from 11/10/04 until 12/8/04. Time excluded from 12/8/04 until 1/11/05. (Brown, Rex) (Entered: 04/04/2005)
03/23/2005	● <u>11</u>	Joint MOTION for Excludable Delay from 3/15/05 to 4/26/05 as to Victor Vargasby USA. (Bower, Sandra) (Entered: 03/23/2005)
04/26/2005	●	Electronic Clerk's Notes for proceedings held before Judge Joyce London Alexander :FINAL Status Conference as to Victor Vargas held on 4/26/2005. Whereas all pre-trial matters referred to this Court by the District Judge have been resolved, the case is hereby returned to the District Judge. (Tape #Digital Recording.) (Brown, Rex) (Entered: 05/03/2005)
04/26/2005	●	Judge Joyce London Alexander : Electronic ORDER entered granting <u>11</u> Motion to Exclude as to Victor Vargas (1) (Brown, Rex) (Entered: 05/03/2005)
04/26/2005	● <u>14</u>	Judge Joyce London Alexander : Electronic ORDER entered. ORDER ON EXCLUDABLE DELAY as to Victor Vargas Time excluded from 3/15/05 until 4/26/05. (Brown, Rex) (Entered: 05/03/2005)
04/26/2005	● <u>15</u>	Judge Joyce London Alexander : ORDER entered. REPORT AND ORDER on Final Status Conference as to Victor Vargas (Brown, Rex) (Entered: 05/03/2005)
04/26/2005	● <u>16</u>	JOINT STATUS REPORT by Victor Vargas, USA as to Victor Vargas (Brown, Rex) (Entered: 05/03/2005)
05/06/2005	●	NOTICE OF HEARING as to Victor Vargas Pretrial Conference set for 5/18/2005 03:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 05/06/2005)

05/18/2005	●	Electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel :Pretrial Conference as to Victor Vargas held on 5/18/2005 Jury Trial set for 7/18/2005 09:00 AM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 05/18/2005)
05/26/2005	● 17	JOINT MOTION for Excludable Delay from 5/18/05 to 7/18/05 as to Victor Vargasby Victor Vargas, USA. (Johnson, Jay) (Entered: 05/27/2005)
05/31/2005	● 18	Judge Rya W. Zobel : endorsed ORDER entered granting 17 Motion to Exclude as to Victor Vargas (1) (Urso, Lisa) (Entered: 06/01/2005)
07/07/2005	● 19	Proposed Jury Instructions by USA as to Victor Vargas (Bower, Sandra) (Entered: 07/07/2005)
07/07/2005	● 20	Proposed Voir Dire by USA as to Victor Vargas (Bower, Sandra) (Entered: 07/07/2005)
07/11/2005	● 21	EXHIBIT/WITNESS LIST by USA as to Victor Vargas (Bower, Sandra) (Entered: 07/11/2005)
07/11/2005	● 22	WITNESS LIST by USA as to Victor Vargas (Bower, Sandra) Modified on 7/12/2005 (Johnson, Jay). (Entered: 07/11/2005)
07/14/2005	● 23	EXHIBIT/WITNESS LIST by USA as to Victor Vargas (Bower, Sandra) (Entered: 07/14/2005)
07/18/2005	●	Electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel :Jury Trial as to Victor Vargas held on 7/18/2005, Voir Dire begun on 7/18/2005 Victor Vargas (1) on Count 1,2,3 ; Jury of 12 jurors and 1 alternate selected and sworn; Goverment's opening; defendant's opening; Goverment witness #1 Jacqueline Crist; cross; witness #2 Tara Cote; cross; witness #3 Mara Pioro; cross; witness #4 Brent Brown; cross; redirect; witness #5 Joann Sassone; Goverment recalls witness #4 Brent Brown; Interpreter Anna Farias sworn; (Court Reporter Catherine Handel.) (Urso, Lisa) (Entered: 07/19/2005)
07/19/2005	●	Electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel :Jury Trial day two as to Victor Vargas held on 7/19/2005; Brent Brown re-called by Goverment; cross; witness #6 Thomas Liszkiewicz; cross; redirect; recross; Goverment rests; defense rests; charge conference; Goverment's closing arguments; defense closoing; Judge charges jury around 12:20; Jury verdict 3:30; guilty on all counts; (Court Reporter Catherine Handel.) (Urso, Lisa) (Entered: 07/20/2005)
07/19/2005	● 24	Proposed defense instructions-fingerprint expert as to Victor Vargas: (Urso, Lisa) (Entered: 07/20/2005)
07/19/2005	● 25	JURY VERDICT as to Victor Vargas (1) Guilty on Count 1,2,3. (Urso, Lisa) (Entered: 07/20/2005)
07/20/2005	● 26	Judge Rya W. Zobel : Order ORDER entered. PROCEDURAL ORDER re sentencing hearing as to Victor Vargas Sentencing set for 10/18/2005 03:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa)

		(Entered: 07/20/2005)
07/25/2005	27	TRANSCRIPT of Jury Trial Day Two (Testimony of Thomas Liszkiewicz) as to Victor Vargas held on July 19, 2005 before Judge Zobel. Court Reporter: Catherine A. Handel. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/261-0555 or the Clerk's Office. (Scalfani, Deborah) (Entered: 07/25/2005)
07/26/2005	28	MOTION for Acquittal <i>After Trial And For A New Trial</i> as to Victor Vargas. (McGinty, Charles) (Entered: 07/26/2005)
10/18/2005	29	ElectronicClerk's Notes for proceedings held before Judge Rya W. Zobel :Sentencing held on 10/18/2005 for Victor Vargas (1), Count(s) 1, 2, 3, The defendant is sentenced to One year and One day; 2 years SR; \$300.00 SA; no fine; Standard Conditions apply; SC; if deported, leave the us; and use true name;. (Court Reporter Valerie O'Hara.) (Urso, Lisa) (Entered: 10/20/2005)
10/20/2005	30	Judge Rya W. Zobel : OrderORDER entered. JUDGMENT as to Victor Vargas (1), Count(s) 1, 2, 3, The defendant is sentenced to One year and One day; 2 years SR; \$300.00 SA; no fine; Standard Conditions apply; SC; if deported, leave the us; and use true name; (Urso, Lisa) (Entered: 10/20/2005)
10/20/2005	31	Judge Rya W. Zobel : OrderORDER entered. STATEMENT OF REASONS as to Victor Vargas (Urso, Lisa) (Entered: 10/20/2005)
10/24/2005	32	Judge Rya W. Zobel : Memorandum of DecisionORDER entered. as to Victor Vargas re 28 MOTION for Acquittal <i>After Trial And For A New Trial</i> filed by Victor Vargas; DENIED; (Urso, Lisa) (Entered: 10/25/2005)
10/27/2005	33	NOTICE OF APPEAL by Victor Vargas Filing fee \$ 255. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 11/16/2005. (McGinty, Charles) (Entered: 10/27/2005)